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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,766	02/11/2004	Edward I. Knorring JR.	29968/38488A	3434
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MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			EXAMINER NEWTON, JARED W	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,766

Applicant(s)

KNORRING ET AL.

Examiner

Jared W. Newton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 13-15, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) 12 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date 9/7/04; 10/27/04;

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Figures 1-8 and 15-18, on which generic claims 1-12, and 16-18 read, in the reply filed on December 2, 2005 is acknowledged.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: lines 3-3 of FIG. 4 as mentioned in the specification (see Page 5, Line 1) are not shown in the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 7 is objected to because of the following informalities: The wording "...in an elongated slot formed in one of the front of the inclined sheet..." is unclear (see Lines 2 and 3). Appropriate clarification or correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2-12 recite the limitation "adapter" in the first line of each claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,454,948 to Spamer.

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In regard to claim 1, Spamer discloses an inclined sheet 5 comprising channels 12 that form a bearing surface extending between the front and rear of the inclined sheet 5 (see FIG. 1); a generally vertical wall 15a extending downwardly from the rear of the inclined sheet 5 (see FIG. 2); and a ledge 15b extending forwardly of the generally vertical wall, said ledge positioned a predetermined distance below the rear of the inclined sheet (see FIG. 3).

In regard to claim 2, Spamer further discloses an upwardly directed lip 10 at the front of the inclined sheet 5 (see FIG. 1).

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 2,218,444 to Vineyard.

In regard to claim 1, Vineyard discloses a merchandise dispenser comprising an inclined sheet 7 supporting a bearing surface 12, a generally vertical wall 8 extending downwardly from the rear of the inclined sheet; and a ledge extending forwardly of the vertical wall, said ledge positioned a selected distance below said sheet (see FIG. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over '444 to Vineyard, and further in view of US Patent No. 4,454,948 to Spamer.

In regard to claim 2, Vineyard discloses a dispenser comprising the limitations of claim 1. In regard to claim 3, Vineyard discloses a front-end stop extension 11 at the end of said sheet 7 (see FIG. 1). In regard to claim 7, Vineyard further discloses a rigid curved sheet 27 provided in slots formed by prongs 26 at the front end of said dispenser (see FIG. 4). Vineyard does not disclose an upturned lip.

Spamer discloses an upwardly turned lip bumper 10 as set forth above in the 35 USC 102 rejections.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the dispenser as set forth by Vineyard with the lip bumper as set forth by Spamer. The motivation would be that as set forth by Spamer; to provide said dispenser with an additional means of arresting the forward movement of stored products.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over '444 to Vineyard, further in view of '948 to Spamer, and further in view of US Patent No. 6,779,670 to Primiano et al.

Vineyard in view of Spamer discloses a dispenser comprising all of the limitations of claim 3. Vineyard further discloses said stop extensions 11 comprising generally inverted U-shaped wire members having first and second legs. Vineyard does not disclose said legs extending into wire receiving holes.

Primiano et al. disclose a display track device comprising a generally inverted U-shaped stop member comprising wire legs 48 and 50 received into holes in said track (see FIG. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the wire receiving holes as shown by Primiano et al. in the dispenser as set forth by Vineyard so that the U-shaped stop member would be received inside the border walls of said dispenser. The motivation for having the stop member within the border walls would be to allow for items to be placed flush against the sheet 7 without interfering with the U-shaped member.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over '444 to Vineyard, further in view of '948 to Spamer, further in view '670 to Primiano et al., and further in view of US Patent No. 5,531,417 to Valiulis et al.

In regard to claim 5, Vineyard in view of Spamer discloses all of the limitations of claim 3 as set forth above, but does not disclose a cover. In regard to claim 6, Vineyard in view of Spamer, in further in view of Primiano et al. further disclose the wire receiving holes as set forth above, but fail to disclose said cover comprising a sleeve including indicia.

Valiulis et al. disclose a U-shaped display hook 20 comprising a sleeve cover 30 which displays indicia or labels (see FIG. 1). Valiulis et al. recite, "...the wire nose 25 supports a holder 30 which, in turn, serves as a mounting for a label..." (See Column 3, Line 19). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the U-shaped stop member as disclosed by Vineyard with the sleeve cover as set forth by Valiulis et al. The motivation would be to clearly indicate the

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product being supported by the dispenser. Further, it is well known in the art of merchandise display to provide the ends of display members with covers comprising labels or advertising indicia.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over '948 to Spamer as applied to claims 1 and 2 above, and further in view of US Patent No. 6,779,670 to Primiano et al.

Spamer discloses the limitations of claims 1 and 2 as set forth above, but does not disclose front end stop extensions provided adjacent the upwardly-directed lip, wherein said extensions include a generally inverted U-shaped wire member having first and second legs extending through wire-receiving holes provided in the inclined sheet.

In regard to claims 3 and 4, Primiano et al. disclose a merchandise display track comprising a generally U-shaped wire front stop extensions comprising first 48 and second 50 legs extending into the inclined sheet floor 28 (see FIGS. 1 and 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the display unit as disclosed by Spamer with the U-shaped wire and wire-receiving holes as set forth by Primiano et al. The motivation would be to provide the unit to Spamer with a means of securing tall items that may otherwise fall over the upper extending lip portion.

Claims 8-10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over '948 to Spamer as applied to claims 1 and 2 above, and further in view of US Patent No. 5,779,064 to Dolling.

Spamer discloses a display unit comprising all of the limitations of claim 1, but does not disclose:

- a. Rollers (claim 8);
- b. Roller track members (claim 9);
- c. C-shaped cross-section, receiving apertures, legs and inwardly-directed feet, and aligned pairs of axle-receiving holes along each of the legs (claim 10);
- d. Upwardly-projecting tangs (claim 11);
- e. And, said tangs being staggered (claim 12).

With respect to a and b, Dolling discloses an inclined fastening arrangement for a rack system comprising roller tracks 3 supporting a plurality of rollers (see FIG. 2). Dolling recites, "The wheel track 3 comprises a plurality of aligned rollers supported within a frame structure." (See Column 2, Line 34).

With respect to c, Dolling further discloses said tracks 3 comprising a C-shaped cross-section and including an upper elongated surface 9 having a plurality of roller-receiving apertures therein, a pair of side support legs extending downwardly from the upper elongated surface, inwardly-directed feet 10 extending from each of the side support legs, and a plurality of axle-receiving holes along each of the side support legs, each of the axle-receiving holes along one of the side legs being aligned with one of the axle-receiving holes along the other side support leg, and wherein each of the rollers

includes an axle received in a pair of the axle-receiving openings, said rollers being received on said axle in said axle holes (see FIG. 3).

With respect to d, Dolling further discloses a plurality of regularly spaced rows of upwardly-projecting tangs or tongues 5 and 8, wherein the tangs in one of each of the pairs of rows extend sideways, in an opposite direction from the tangs of the other row of said pair of rows (see FIG. 2), each of said pairs of columns of tangs defining channels to receive the inwardly-directed feet extending from each of the side support legs of one of the roller track members. Dolling recites, "The upper limb 1a joins a substantially vertical web 1b leading to a lower substantially horizontal limb 1c, which extends out underneath the wheel track 3, thereby forming a flange 4 to support the wheel track. Tongues 5 (see also FIG. 3) are pressed out of the flange of the lower horizontal surface and lie substantially parallel to the surface of the flange.

The free ends of the tongues 5 extending in the same direction as the free end of the flange, such that half the length of the tongue extends further from the web 1b than the upper free end 1a. At the free end of the tongue the separation of the tongue and flange increases slightly to facilitate the insertion of the wheel track 3, which is held between the tongue 5 and the flange 4." (see Column 2, Lines 22-33). Dolling further recites, "Tongues 8 are pressed out of the web of the lower horizontal flange 6." (See Column 2, Line 52).

In regard to claim 16, Spamer discloses the inclined sheet, the downwardly extending leg, and the stop member as set forth above. Spamer does not disclose the

upwardly extending tabs to receive one of a plurality of track members. Dolling sets forth the tongues, and roller track members as set forth above.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the display unit as disclosed by Spamer with the track, roller, and mount features as set forth by Dolling. The combination of said features would be accomplished by punching out tongues, as set forth by Dolling, from the surface of the inclined sheet to Spamer; and providing the track and roller assemblies as disclosed by Dolling on said tongues. The motivation for providing the track and roller system would be to simplify the feed mechanism of packages stored on said display unit to Spamer. Spamer implies the desirability of a gravity-feed system for retail display. The inclusion of rollers in order to more easily and efficiently feed merchandise to the front of said unit would be an obvious improvement over the current construction, especially when heavier objects the produce a large resistive friction force are to be moved.

In regards to claim 17, the examiner takes official notice that the method set forth is obvious and inherent within the structure defined by the Spamer in view of Dolling reference. It would have been obvious to one of ordinary skill in the art at the time of the invention to form the sheet as set forth by Dolling, and place said sheet on a flat shelf as set forth by Spamer, so as to induce a gravity feed mechanism.

Allowable Subject Matter

Claims 12 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- US Patent No. 5,115,920 to Tipton et al.
- US Patent No. 5,788,090 to Kajiwara
- US Patent No. 6,328,170 to Lee
- US Patent No. 6,799,689 to Langtry
- US Patent No. 4,293,062 to Bustos

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWN

December 29, 2005



RICHARD E. CHILOOT, JR.
SUPERVISORY PATENT EXAMINER